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## Massachusetts Gaming Commission Meeting Minutes

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**Date/Time:** January 19, 2023, 10:00 a.m.  
**Place:** Massachusetts Gaming Commission  
VIA CONFERENCE CALL NUMBER: 1-646-741-5292  
PARTICIPANT CODE: 111 1431 1966

The Commission conducted this public meeting remotely utilizing collaboration technology. Use of this technology was intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public.

### **Commissioners Present:**

Chair Cathy Judd-Stein  
Commissioner Eileen O'Brien  
Commissioner Bradford Hill  
Commissioner Nakisha Skinner  
Commissioner Jordan Maynard

#### 1. [Call to Order](#) (00:00)

Chair Judd-Stein called to order the 425<sup>th</sup> Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

#### 2. [Opening Remarks](#) (01:19)

Chair Judd-Stein stated that in the previous meeting, the Commission confirmed that each applicant had submitted all supplemental information requested by the Commission. She stated that the Commission would now assess whether the supplemental information satisfied each request or whether it would be appropriate to impose conditions on licensure.

#### 3. [Evaluation Process](#) (03:20)

Commissioner O'Brien asked if Betr Holdings, Inc. d/b/a Betr ("Betr") had submitted supplemental information regarding an answer to the cryptocurrency litigation. Chief Administrative Officer Crystal Beauchemin stated that she confirmed with Betr representatives that no answer had been filed.

The Commission reached a consensus that the supplemental information submitted by Bally's Interactive, LLC ("Bally's"), Betfair Interactive US, LLC d/b/a FanDuel ("FanDuel"), Betr, Crown MA Gaming, LLC d/b/a DraftKings ("DraftKings"), Digital Gaming Corporation, USA d/b/a Betway ("DGC"), and PointsBet Massachusetts, LLC ("PointsBet") met the Commission's expectations. The Commission reached a consensus that all category three untethered sports wagering applications met the Commission's expectations in their entirety.

Chair Judd-Stein stated that this meeting was the Commission's opportunity to review the pool of applicants against each other to determine which applicant would maximize benefits and minimize harm to the Commonwealth. Commissioner O'Brien stated that she may have further questions regarding RSM US, LLP's ("RSM") financial suitability reports that would be appropriate for executive session. Chair Judd-Stein noted that all six applicants provided variation in their application. She noted that Betr had a different sports wagering model that offered innovation.

Commissioner O'Brien stated that the portions of the application that were most important to her were responsible gaming, suitability, and economic impact. She stated that she was conflicted by the way some innovation ideas conflicted with responsible gaming. She expressed that she was struck by the commitment to jobs being produced in the Commonwealth and noted that DraftKings was already headquartered in Massachusetts.

Commissioner O'Brien expressed concern that platform bets based on impulse had not been largely studied. She stated that while Betr had great plans to protect vulnerable populations, she had responsible gaming concerns related to their platform. She stated that the company's image was tied to a sports professional, which was not a typical suitability background. She expressed concerns regarding DGC's readiness to launch in Massachusetts. Chair Judd-Stein noted that no qualifier had gone through a full durable suitability process at this time. Chair Judd-Stein noted that even the newcomers to the sports wagering industry had hired experienced leadership.

Commissioner Skinner stated that in her review, she focused on diversity in the applicants' workforce and suppliers, as well as the applicants' community engagement. She stated that each application demonstrated commitment to increasing diversity. She stated that there was nothing glaringly deficient in any of the applications and expressed that she could not see herself granting a license to one applicant over another. She expressed that based on the Commission's review of the applications, each of the six applicants should be granted a temporary license.

Commissioner Maynard stated that when reviewing applications, he focused on diversity opportunities. He expressed that both the Commonwealth and the applicants would see benefits

from incorporating diversity. He explained that he also focused on the applicants' commitment to collaborate with the Massachusetts Lottery. He stated that he wanted to ensure that there were efforts to mitigate harm to the Lottery. He stated that all applicants had committed to collaboration with the Massachusetts Lottery and noted that Betr had taken an interesting approach.

Commissioner Hill stated that in his review, he focused on the applicants' commitment to community engagement. He expressed that he was happy with the community partnerships each of the applicants had in other jurisdictions. He also noted that he was impressed by the applicants' responses regarding responsible gaming and diversity.

Chair Judd-Stein noted that each applicant was responsive when more information was requested by the Commission. Commissioner O'Brien expressed concern regarding harm from the industry on vulnerable populations in their early 20s. She stated that all applicants met the minimum criteria, but that she believed there was more room for comparative analysis.

Chair Judd-Stein sought clarification regarding the review process. General Counsel Todd Grossman explained that the criteria the Commission was to review while evaluating the applications were found in the Commission's regulations at 205 CMR 218.06(5) and (6) which he reviewed, including the requirement for suitability, which at this point in the process is a preliminary finding of suitability as compared to the later durable finding of suitability. He reminded the Commission that the ultimate question was whether there is substantial evidence in the record to support a conclusion that the award of a license to a particular applicant would benefit the Commonwealth. He also explained that the Commission could impose conditions on licenses in accordance with 205 CMR 220.

## 5. [Executive Sessions](#) (1:20:27)

Chair Judd-Stein asked Commissioner O'Brien which topic she would like to discuss in executive session. Commissioner O'Brien stated that she wanted to discuss RSM's financial suitability presentation and relative economic impact for the applicants. General Counsel Grossman stated that this topic was appropriate for executive session in accordance with G.L. c. 23N, § 6(i).

Chair Judd-Stein stated that the Commission anticipated that it would meet in executive session in conjunction with its review of each of the category 3 untethered applications in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i) to consider information submitted by the applicants in the course of the respective applications for an operator license, as examined by RSM US LLP in the context of any discussed financial metrics, ratios, or associated financial measures, that are a trade secret, competitively-sensitive or proprietary and which if disclosed publicly would place the applicant at a competitive disadvantage.

Commissioner O'Brien moved that the Commission go into executive session for the matters and reasons stated by General Counsel Grossman and the Chair.

*Roll call vote:*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 5-0.*

Chair Judd-Stein noted that the public session of the meeting would reconvene after the conclusion of the executive session.

*Transcriber's Note: The Commission entered executive session. The Commission returned to the public session of the meeting at [3:37:24](#).*

5. [License application determinations by the Commission in accordance with 205 CMR 218.07 relative to the applications submitted by Bally's Interactive, LLC, Betfair Interactive US, LLC \(d/b/a FanDuel\), Betr Holdings, Inc., Crown MA Gaming, LLC \(DraftKings\), Digital Gaming Corporation USA, and PointsBet Massachusetts, LLC.](#) (3:38:16)

Commissioner O'Brien asked if there was a procedural process available should one or more of the seven available licenses not be awarded at this meeting. General Counsel Grossman stated that pursuant to 205 CMR 218.02, the Commission had the ability to set deadlines for the filing of an application, and that the Commission would be able to address any outstanding untethered license through that provision if they chose to accept additional applications.

Chair Judd-Stein stated that each applicant's role was different but individually strong. She asked if all certifications had been submitted as requested for suitability. Executive Director Karen Wells stated that she would have Director of the Investigations and Enforcement Bureau ("IEB") Loretta Lillios answer that question.

The Commission discussed potential conditions to impose upon the temporary licenses. The Commission reached a consensus that the requirement that operators develop and report workforce and supplier diversity goals would be better addressed via regulation. The Commission reached a consensus that the operators' commitment to collaborate with the Massachusetts Lottery would be better addressed via regulation. The Commission determined that any updates regarding suitability matters in other jurisdictions would have to be reported as part of the ongoing suitability process.

General Counsel Grossman stated that the Commission had previously discussed a condition regarding Betr not offering wagering on events where Betr's Founder and President Jake Paul was a fighter, promoter, or other participant.

General Counsel Grossman stated that FanDuel had submitted its daily fantasy sports registration in Massachusetts but had yet to pay its retroactive taxes. He stated that FanDuel was obliged to pay such under a separate body of law and that a condition was not necessary.

General Counsel Grossman stated that DGC's parent company SuperGroup Holdings Inc. ("SGHC") had submitted its attestations and certifications. He stated that SGHC had agreed to a restriction on the transferability of any prospective license if DGC was not able to launch sports wagering operations by March.

General Counsel Grossman noted that PointsBet had pledged not to engage with marketing on college or university campuses in the Commonwealth. Commissioner O'Brien stated that this was a requirement for all operators and that it was included in the draft of 205 CMR 256, which was scheduled for a vote the following day.

Commissioner O'Brien noted that during a prior vote, Caesars Entertainment's temporary license was subjected to a condition that Caesars not advertise at colleges or universities in the Commonwealth. She stated that she wanted to ensure that conditions on all licensees were consistent. General Counsel Grossman stated that when written decisions were drafted, the Commission could strike that condition as it would be addressed in 205 CMR 256.

Commissioner O'Brien asked if the Commission had any recourse should a license be awarded but the licensee does not launch sports wagering operations. General Counsel Grossman stated that the license permits the licensee to engage in an activity, but it is not a mandate. He stated that if this were to occur, it could be addressed during the renewal process. Commissioner Maynard expressed that he would be upset if a licensee received a license only to use it as leverage for the sale of the company. He stated that this would be considered in any decision to grant a transfer or renewal of the license.

Commissioner O'Brien noted that Betr agreed not to offer wagering on combat sports and questioned whether a condition should be added. Commissioner Hill stated that the restriction should be on any event that Mr. Paul was involved with, not just events where Mr. Paul was competing. General Counsel Grossman stated that limitations could not be placed on what leagues wagering is offered on, as it was unclear what league or promotion Mr. Paul would partner with in the future.

In regard to Betr and Mr. Paul or other similar situations, Commissioner Hill inquired as to whether there was a statute or regulation that would allow the Commission to penalize the licensee should a conflict arise. Commissioner Skinner stated that the Commission would need to understand the issue better before it could be regulated. Chair Judd-Stein proposed that these conflicts of interest be addressed by regulation rather than as a condition on Betr's license.

Commissioner Skinner asked if the Commission staff received attestations from SGHC. Director Lillios stated that the Commission received certifications and attestations regarding suitability from SGHC. She stated that all applicants had submitted the required certifications and attestations. General Counsel Grossman reiterated the factors for evaluating the applications set forth in 205 CMR 218.06(5) and (6).

Commissioner O'Brien moved that the Commission find based on the record before it, which includes the application submitted by the applicant, Bally's, including supplemental information as well as information presented to the Commission in its public review of the application which commenced on January 6, 2023, that the applicant Bally's Interactive has shown by substantial evidence that it has satisfied the criteria set forth in G.L. c. 23N as well as 205 CMR 218.06(5) and (6) demonstrating that the award of a license to it would benefit the Commonwealth; second, that it established its qualifications for preliminary suitability in accordance with 205 CMR 215.01(2) and 205 CMR 218.07(1)(a); and third, that granting a license to it as it relates to the other applicants and licensees would maximize the overall benefits and minimize overall harms or risks of harm to the Commonwealth. This would thus make the applicant, Bally's, eligible to pursue a temporary license provided that this approval is subject to the conditions specifically set forth in 205 CMR 220.01. Commissioner Hill seconded the motion.

*Roll call vote:*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 5-0.*

Commissioner O'Brien moved that the Commission find based on the record before it, which includes the application submitted by the applicant, Betfair Interactive US, LLC, including supplemental information as well as information presented to the Commission in its public review of the application which commenced on January 6, 2023, that the applicant Betfair Interactive US, LLC has shown by substantial evidence that it has satisfied the criteria set forth in G.L. c. 23N as well as 205 CMR 218.06(5) and (6) demonstrating that the award of a license to it would benefit the Commonwealth; second, that it established its qualifications for preliminary suitability in accordance with 205 CMR 215.01(2) and 205 CMR 218.07(1)(a); and third, that granting a license to it as it relates to the other applicants and licensees would maximize the overall benefits and minimize overall harms or risks of harm to the Commonwealth. This would thus make the applicant, Betfair Interactive US, LLC, eligible to pursue a temporary license provided that this approval is subject to the conditions specifically set forth in 205 CMR 220.01. Commissioner Maynard seconded the motion.

*Roll call vote:*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*  
*Commissioner Skinner: Aye.*  
*Commissioner Maynard: Aye.*  
*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 5-0.*

Commissioner Skinner moved that the Commission find based on the record before it, which includes the application submitted by the applicant, including supplemental information as well as information presented to the Commission in its public review of the application which commenced on January 6, 2023, that the applicant, Betr Holdings, Inc., has shown by substantial evidence that it has satisfied the criteria set forth in G.L. c. 23N as well as 205 CMR 218.06(5) and (6) demonstrating that the award of a license to it would benefit the Commonwealth; second, that it established its qualifications for preliminary suitability in accordance with 205 CMR 215.01(2) and 205 CMR 218.07(1)(a); and third, that granting a license to it as it relates to the other applicants and licensees would maximize the overall benefits and minimize overall harms or risks of harm to the Commonwealth. This would thus make the applicant eligible to pursue a temporary license provided that this approval is subject to the conditions specifically set forth in 205 CMR 220.01. Commissioner Hill seconded the motion.

Before voting, Commissioner O'Brien noted that she was conflicted on this application. She stated that there were both positive and negative aspects in Betr's submissions. She expressed concern about the applicant being tied to a sports celebrity in the vulnerable age group.

*Roll call vote:*  
*Commissioner O'Brien: Nay.*  
*Commissioner Hill: Aye.*  
*Commissioner Skinner: Aye.*  
*Commissioner Maynard: Aye.*  
*Chair Judd-Stein: Aye.*

*The motion passed, 4-1.*

Commissioner Hill moved that the Commission find based on the record before it, which includes the application submitted by the applicant, including supplemental information as well as information presented to the Commission in its public review of the application which commenced on January 6, 2023, that the applicant, Crown Gaming MA, LLC, has shown by substantial evidence that it has satisfied the criteria set forth in G.L. c. 23N as well as 205 CMR 218.06(5) and (6) demonstrating that the award of a license to it would benefit the Commonwealth; second, that it established its qualifications for preliminary suitability in accordance with 205 CMR 215.01(2) and 205 CMR 218.07(1)(a); and third, that granting a license to it as it relates to the other applicants and licensees would maximize the overall benefits and minimize overall harms or risks of harm to the Commonwealth. This would thus make the applicant eligible to pursue a temporary license provided that this approval is subject to the conditions specifically set forth in 205 CMR 220.01. Commissioner O'Brien seconded the motion.

*Roll call vote:*

*Commissioner O'Brien:*       *Aye.*

*Commissioner Hill:*       *Aye.*

*Commissioner Skinner:*       *Aye.*

*Commissioner Maynard:*       *Aye.*

*Chair Judd-Stein:*       *Aye.*

*The motion passed unanimously, 5-0.*

Commissioner Skinner moved that the Commission find based on the record before it, which includes the application submitted by the applicant, including supplemental information as well as information presented to the Commission in its public review of the application which commenced on January 6, 2023, that the applicant, Digital Gaming Corporation, has shown by substantial evidence that it has satisfied the criteria set forth in G.L. c. 23N as well as 205 CMR 218.06(5) and (6) demonstrating that the award of a license to it would benefit the Commonwealth; second, that it established its qualifications for preliminary suitability in accordance with 205 CMR 215.01(2) and 205 CMR 218.07(1)(a); and third, that granting a license to it as it relates to the other applicants and licensees would maximize the overall benefits and minimize overall harms or risks of harm to the Commonwealth. This would thus make the applicant eligible to pursue a temporary license provided that this approval is subject to the conditions specifically set forth in 205 CMR 220.01. Commissioner O'Brien seconded the motion.

*Roll call vote:*

*Commissioner O'Brien:*       *Aye.*

*Commissioner Hill:*       *Aye.*

*Commissioner Skinner:*       *Aye.*

*Commissioner Maynard:*       *Aye.*

*Chair Judd-Stein:*       *Aye.*

*The motion passed unanimously, 5-0.*

Commissioner Maynard moved that the Commission find based on the record before it, which includes the application submitted by the applicant, including supplemental information as well as information presented to the Commission in its public review of the application which commenced on January 6, 2023, that the applicant, PointsBet Massachusetts, LLC, has shown by substantial evidence that it has satisfied the criteria set forth in G.L. c. 23N as well as 205 CMR 218.06(5) and (6) demonstrating that the award of a license to it would benefit the Commonwealth; second, that it established its qualifications for preliminary suitability in accordance with 205 CMR 215.01(2) and 205 CMR 217.07(1)(a); and third, that granting a license to it as it relates to the other applicants and licensees would maximize the overall benefits and minimize overall harms or risks of harm to the Commonwealth. This would thus make the applicant eligible to pursue a temporary license provided that this approval is subject to the



conditions specifically set forth in 205 CMR 220.01. Commissioner Skinner seconded the motion.

*Roll call vote:*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 5-0.*

The Commission congratulated the applicants who were awarded temporary licenses and thanked the Commission staff for their work.

6. [Other Business](#) (5:08:04)

Hearing no other business, Chair Judd-Stein requested a motion to adjourn.

Commissioner Hill moved to adjourn. The motion was seconded by Commissioner O'Brien.

*Roll call vote:*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 5-0.*

**List of Documents and Other Items Used**

1. [Notice of Meeting and Agenda dated January 3, 2023](#)